IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 882 of 2002

to

SPECIAL CIVIL APPLICATION No 946 of 2002

with

SPECIAL CIVIL APPLICATION No 4491 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

EXECUTIVE ENGINER

Versus

GAMANBHAI FULCHANDBHAI GAMIT

Appearance:

1. Special Civil Application No. 882 to 946 of 2002
   MR KAMAL TRIVEDI Ld. Additional Advocate General with MR SP HASURKAR for Petitioner No. 1
   MR NR SHAHANI for Respondent No. 1
2. Special Civil Application No. 4491 of 2002
   MR NR SHAHANI for Petitioner No. 1

RULE SERVED BY DS for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 12/08/2004

ORAL COMMON JUDGEMENT

1.0. This group of petitions have been directed against the judgment and award dated 6th June, 2001 passed in Reference [L.C.S.] Nos. 363 of 1988 to 463 of 1988, whereby the Labour Court, Surat has directed the petitioner-Board to reinstate the respondent-workmen without backwages and without continuity of service.

2.0. After hearing the parties at length, prima facie it appears that some of the important documents are not properly considered by the Labour Court. Apart from that majority of the workers were also not examined by the Labour Court. Therefore, in my opinion, at this stage, it is not proper for this Court to give any opinion, since important documents etc., were not properly considered by the Labour Court.

2.1. Looking to the peculiar facts and circumstances of the case, a consensus has been arrived at between the parties and on the basis of such consensus the matters shall be remanded to the Labour Court for deciding afresh.

2.2. In view of the above, the petitions are partly allowed. The judgment and award dated 6th June, 2001 passed in Reference [L.C.S.] Nos. 363 of 1988 to 463 of 1988, is quashed and set aside.

3.0. The matters are remanded to the Labour Court for fresh decision. The Labour Court shall consider the matters afresh, after allowing the parties to adduce oral as well as documentary evidence and also without being influenced by the present order, since the order is passed without entering into merits. It will be open for the Labour Court to consider additional oral as well as documentary evidence.

3.1. It is directed that the Labour Court shall complete the proceedings on or before 31st December. 2004. In the meantime, the petitioner-Board will continue to pay same benefits which were being paid to the respondent-workmen as on today, pursuant to the order of this Court till, 31st December, 2004. It is also made

clear that the Labour Court will complete the proceedings by giving priority, but if the workers are not cooperative and the same are adjourned at the instance of the respondent-workmen, they will not be entitled for the benefits under Section 17-B of the I.D. Act from 1st January, 2005, and if it is adjourned at the instance of the petitioner-Board, it will be open for the respondent-workmen to approach this Court for extension of the same benefits and for such other relief to continue till the final disposal of the Reference by the Labour Court.

4.0. The office is directed to send back the Records & Proceedings forthwith i.e. latest by 16th August, 2004. Copy of this order shall be provided to both the parties at the earliest and on receipt of such copy, the parties will appear before the Labour Court on 23rd August, 2004.

4.1. The office is also directed the send a copy of this order to the Labour Court latest by 18th August, 2004.

5.0. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

/phalguni/